27.7.2006 Present: Mr. M.L.Brakta, counsel for the petitioner.
Mr. Ramakant Sharma, counsel for the respondent.

CrMP(M) No. 352/06.

This petition for leave to appeal is directed against the order of the Judicial Magistrate Ist Class, Theog in case No. 171-1 of 2004 decided on 23.12.2005 whereby he has acquitted the accused.

The petitioner – complainant filed a complaint against Ramesh Thakur under Section 7(1)(d) of the Protection of Civil Rights Act, 1955 read with Sections 342,504,506-II of the Indian Penal Code. According to the complainant, he along with accused and some other persons were the members of a Committee formed by the State of H.P. under the Sarv Shiksha Abhiyan to provide financial assistance to construct the school building at Mahog. This Committee was supervising the construction work of the said school building. The accused was the President of the said Committee whereas the complainant was a member thereof. According to the complainant on 24.5.2004 a meeting of this Committee took place and the complainant insisted that before any approval is given or report is accepted, he should be shown the vouchers with regard to the work done on the spot. On this, the accused flared up and started abusing him in filthy language and called him " Achhoot" and "Koli" and also threatened him with dire

consequences. The accused also insulted the complainant by making reference to his caste and told him that he being a Harijan has no right to ask for the report. The learned trial Court after recording the evidence has come to the conclusion that the complainant has failed to prove his case and dismissed the complaint. Hence, the present appeal.

The complainant examined himself and one other witness Hem Chand. Admittedly, the meeting took place in first floor of the building in which there is only one room and the remaining four rooms are in the ground floor. According to him, the incident took place inside the room on the first floor of the building and the members of the Committee intervened in the matter but the accused had unlawfully restrained the complainant inside the room and he could come out only when Hem Chand came and rescued him.

Hem Chand was examined as CW2. In examination in-chief, he supports the version of the complainant. However, in cross-examination, his entire testimony has been shattered. He admits that he was not inside the room nor he knew anything about what transpired inside the room. Further according to Hem Chand, the complainant himself came out of the room and Hem Chand did not rescue him from inside the room. It is also pertinent to mention that none of the independent witnesses i.e.

the members of the Committee were examined by the complainant.

Keeping in view the above facts and circumstances, the judgment of the learned trial Court is correct and calls for no interference. Hence, the petition for leave to appeal is rejected.

July 27, 2006. (Deepak Gupta),J.

s.